

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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EMILIO DEJESUS,

ANSWER

Plaintiff,

07 CV 1036
(DLI)(LB)

-against-

DETECTIVE ISAAC WRIGHT, Shield #06069;
DETECTIVE CHRISTOPHER CALLOW, Shield # 01925,

JURY TRIAL
DEMANDED

Defendants.

-----x

Defendant Isaac Wright, by his attorney, Michael A. Cardozo, Corporation Counsel of the City of New York, for his answer to the complaint, respectfully alleges upon information and belief, as follows:¹

1. Denies the allegations set forth in Part "I" of the complaint entitled "Parties in this complaint," except admits that plaintiff purports to name the parties to this action as stated therein.

2. Denies the allegations set forth in Part "II" of the complaint entitled "Statement of Claim," except admits that plaintiff was arrested on or about July 8, 2006 at approximately 11:30 p.m.

3. Denies the allegations set forth in Part "III" of the complaint entitled "Injuries," except denies knowledge or information sufficient to form a belief as to any medical treatment sought or received by plaintiff.

¹ By Order of the Court dated May 14, 2007, the Clerk of the Court was directed to remove Ray Kelly, Commissioner and the NYPD 107th Precinct as defendants and to add Detectives Callow and Wright in their stead.

4. Denies knowledge and information sufficient to form a belief as to the truth of the allegations set forth in Part "IV" of the complaint entitled "Exhaustion of Administrative Remedies."

5. Denies the allegations set forth in Part "V" of the complaint entitled "Relief," except admits that plaintiff purports to seek the relief stated therein.

6. Denies knowledge and information sufficient to form a belief as to the truth of the allegations set forth in Part "VI" of the complaint entitled "Previous lawsuits."

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

7. The complaint fails to state a claim upon which relief can be granted.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

8. Defendant has not violated any rights, privileges or immunities under the Constitution or laws of the United States or the State of New York or any political subdivision thereof.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

9. Any injury alleged to have been sustained resulted from plaintiff's own culpable or negligent conduct or that of a third party and was not the proximate result of defendant Wright.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

10. There was probable cause for the plaintiff's arrest, detention, and prosecution.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

11. At all times relevant to acts alleged in the complaints, defendant acted reasonably in the proper and lawful exercise of his discretion.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE

12. To the extent plaintiff is alleging any state law claims, such claims are barred by plaintiff's failure to comply with New York General Municipal Law § 50-e and § 50-i.

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE

13. To the extent plaintiff is alleging any state law claims, plaintiff has failed to comply with the conditions precedent to suit.

AS AND FOR A EIGHTH AFFIRMATIVE DEFENSE

14. To the extent plaintiff is alleging any state law claims, such claims are barred by the applicable statute of limitations.

AS AND FOR A NINTH AFFIRMATIVE DEFENSE

15. Defendant has not violated any clearly established constitutional or statutory right of which a reasonable person would have known and, therefore, is protected by qualified immunity.

AS AND FOR A TENTH AFFIRMATIVE DEFENSE

16. Plaintiff provoked any incident.

WHEREFORE, defendant Wright requests judgment dismissing the complaint in its entirety, together with the costs and disbursements of this action, and such other and further relief as the Court may deem just and proper.

Dated: New York, New York

September 4, 2007

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Corporation Counsel of the
City of New York
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By:


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ANSWER

MICHAEL A. CARDODOZO

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New York, N.Y. 10007

Of Counsel: Gabriel Harvis
Tel: (212) 788-1816
NYCLIS No. 2007011766

Due and timely service is hereby admitted.

New York, N.Y., 2007 . . .

....., Esq.

Attorney for.....